

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

KEVIN D. MCGEE,)
)
Petitioner,)
)
v.) No. 4:19-cv-03214-SRC
)
DAVE SCHMIDTT,)
)
)
Respondent.)

MEMORANDUM AND ORDER

This matter comes before the Court on review of a document filed by petitioner Kevin D. McGee that has been construed as a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Docket No. 1). For the reasons discussed below, petitioner will be ordered to file an amended petition. He will also be directed to either file a motion for leave to proceed in forma pauperis or pay the filing fee.

Discussion

Petitioner is a pro se litigant who is currently in custody at the Southeast Missouri Mental Health Center (SMMHC) in Farmington, Missouri. He has filed a document with the Court that is styled as a petition for writ of habeas corpus pursuant to Missouri Supreme Court Rule 91. (Docket No. 1 at 1). The Court has construed this document as a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. In the petition, petitioner appears to be challenging a not guilty by reason of insanity plea entered on June 8, 1988. (Docket No. 1 at 2). Petitioner seeks to have this plea vacated, and to be released from SMMHC. (Docket No. 1 at 7). Attached to the petition are seventy-seven pages of exhibits, which include filings and orders from other state and federal cases involving petitioner.

The petition is handwritten and not on a Court form. Because it is not on a Court form, it is missing relevant procedural information about petitioner's case. The Court will direct the Clerk of Court to send to petitioner a copy of the Court's 28 U.S.C. § 2254 form. Petitioner must fill out the form in its entirety and return it to the Court. *See* E.D. Mo. L.R. 2.06(A) ("All actions brought by self-represented plaintiffs or petitioners should be filed on Court-provided forms"). He will be given thirty days in which to comply. Failure to submit an amended petition within thirty days will result in the dismissal of this action without prejudice and without further notice.

Petitioner has also failed to either pay the filing fee or file a motion for leave to proceed in forma pauperis. The Court will direct the Clerk of Court to send to petitioner a copy of the Court's motion to proceed in forma pauperis form. Petitioner will be given thirty days in which to return the form or pay the filing fee. Failure to comply with this order will result in the dismissal of this action without prejudice and without further notice.

Accordingly,

IT IS HEREBY ORDERED that the Clerk of Court shall send to petitioner a copy of the Court's 28 U.S.C. § 2254 form.

IT IS FURTHER ORDERED that petitioner must file an amended 28 U.S.C. § 2254 petition within **thirty (30) days** of the date of this order.

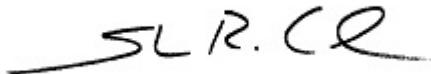
IT IS FURTHER ORDERED that if petitioner does not submit an amended petition within thirty days, this action will be dismissed without prejudice and without further notice from the Court.

IT IS FURTHER ORDERED that the Clerk of Court shall send to petitioner a copy of the Court's motion to proceed in forma pauperis form.

IT IS FURTHER ORDERED that petitioner shall either submit a motion for leave to proceed in forma pauperis or pay the filing fee within **thirty (30) days** of the date of this order.

IT IS FURTHER ORDERED that if petitioner fails to file a motion to proceed in forma pauperis or pay the filing fee within thirty days, this action will be dismissed without prejudice and without further notice.

Dated this 24th day of April, 2020.



STEPHEN R. CLARK
UNITED STATES DISTRICT JUDGE